

# **THE ROLE OF THE OWNERS' REPRESENTATIVE IN ESTABLISHING A CONDOMINIUM OWNERS' ASSOCIATION**

## **Preliminary Meeting with City Hall Coordinator**

A representative of a building that wants to establish an Owners' Association should arrange a preliminary meeting with the City Hall Coordinator of condominium activities. At that meeting, the representative will learn general information about how an Owners' Association is set up and how it operates, and discuss the advantages for the owners as well as the difficulties the Association may encounter at the beginning of its activities.

From the City Hall Coordinator, the Owners' Representative should receive a brochure describing the necessary procedures and a standard application form for establishment of an Owners' Association, including the tabulation of the owners' votes.

Before holding a meeting to vote on formation of an Owners' Association, the representative should meet with every family in the building. For a large building with 100-150 units, meetings with individual families can be replaced by meetings with 5-6 families at the same time, organized at the apartment of one of the families or at the apartment of the representative.

At this stage, the representative's skill in communicating with people and the enthusiasm of the representative are very important. The following advantages of setting up an Owners' Association can be explained:

- Financial advantages: approval of the annual budget by the General Assembly of the owners; maintenance of financial records by a competent person elected from among the owners or hired from outside; direct control of income and expenditures by the auditing committee; the opportunity to earn interest on the reserve fund or accumulation fund monies deposited in the bank in the Association's account.
- Technical advantages: obtaining the technical book for the building; determination by the General Assembly of a plan for repairs and maintenance, a plan for capital repairs, and a plan for investment and improvements to the building. The General Assembly will adopt decisions and establish priorities for the technical work, decide on contracting for services after a preliminary analysis of offers, and monitor the progress of work.
- Legal advantages: The Owners' Association will be a legal entity which may enter into contracts with suppliers of water, heat and hot water, gas, electricity, trash removal, and with suppliers of services (plumbers, electricians, exterminators, cleaning services, gardeners, masons, mechanics, and so forth) through the companies that employ them or through individual contracts. The Association can

bring litigation against debtor owners for the payment of condominium assessments or for trespassing upon the rights of other owners or of the Association itself.

After the individual meetings with each family, the representative can determine whether there is sufficient interest to call a general meeting of the owners to vote on whether to establish an Association. If there is sufficient interest, the representative should contact the City Hall Coordinator and set a date for a general meeting. Each family should receive advance notice of the meeting and its purpose, and all owners in the building should participate either directly or by proxy.

## **Meeting of the Owners**

At the meeting, the City Hall Coordinator and the Owners' Representative should discuss the establishment of an Owners' Association and answer any questions that the owners may have. The City Hall Coordinator should bring copies of public information materials about condominiums, and at least one copy of the Condominium Operations and Management Training Manual.

A vote should be taken on whether or not to establish the Owners' Association, and the application form provided by the City Hall Coordinator can be filled out. The Owners' Representative should also have a copy of a model Association Agreement for the owners to review at the meeting. They may wish to spend some time reviewing it, so it is not necessary to vote on whether or not to adopt the Association Agreement at the first meeting.

If the owners vote to establish an Owners' Association, they can vote to elect an executive committee and officers of the Association. The person who receives the most votes for the executive committee will be the chairman of the Owners' Association.

The owners may also wish to elect an Auditing Committee. It is a good idea to have people with an accounting or financial background for this committee.

The first meeting should end with the following results:

- agreement to form an Owners' Association
- selection of a name for the Association
- the election of the Executive Committee, and
- preparation of minutes of the meeting.

## **The Work of the Experts**

A new Owners' Association probably will need the services of certain experts to begin its operations: a legal expert (a lawyer), a technical expert (an engineer), and a financial expert (an accountant).

The lawyer can assist with establishment and registration of the Association as a nonprofit legal entity.

The financial expert can help determine the value of the owners' capital as of the establishment of the Association, which must be included in the Association Agreement. The owners' capital is represented by the amount of the "reserve fund" paid by the owners of the building plus the funds transferred from the Tenants' Association to the Owners' Association. The financial expert should also prepare a proposed operating budget for the Owners' Association.

The technical expert may need to help determine the valuation in cases where the owners' capital is represented in part or in whole by the valuation of the building. This can be done in advance of completion of a more comprehensive technical report, so that the lengthy process of legal registration is not further delayed.

The technical expert should begin to inspect the property to determine its condition and prepare a technical report for the owners.

## **The Second Meeting of the Owners**

The next meeting of the owners should be organized by the chairman of the Owners' Association. Again, all owners must be invited to attend, either in person or by proxy. During the meeting the following organizational matters should be addressed:

- adoption of an Association Agreement
- selection and authorization of representatives to register the Owners' Association as a legal entity.
- review of the draft budget developed by the financial expert
- selection of a bank where the Association will open an account
- contracts with suppliers (water, heat, hot water, electricity, trash, gas, etc.) can be discussed
- service requirements (cleaning common spaces, plumbing, electricians) can be discussed
- procedures for collection of owners' assessments should be decided, as well as measures which will be taken in the future against debtors

- the amount of contributions to the reserve and repair fund should be determined
- priorities for maintenance and repair work for the current year should be discussed.

## **The Official Startup**

Once the court decision approving the establishment of the Owners' Association is received, the following procedures should be followed:

1. The Executive Committee should set up files for the following:
  - the court order approving registration of the Association;
  - the technical book for the building, the valuation, and the maintenance and repair program;
  - the financial records (the budget for the current year, the records of income and expenditures, payment records for each owner, and the documentation of the separation from the Tenants' Association).
2. The bank account for the Owners' Association should be opened. For this to occur, the following documents are necessary:
  - a copy of the court order;
  - the fiscal code for the Association obtained from the Financial Authority;
  - payment of the tax associated with opening a bank account (25,000 lei as of March 1995);
  - the chairman of the Association and the treasurer or administrator (those with signature rights) must be present when the account is opened.
3. Three stamps bearing the name of the Association must be ordered for the chairman, the treasurer, and the Audit Committee.
4. The following financial and accounting record keeping materials must be obtained:
  - a cash ledger;
  - payment orders or invoices and receipt forms;

- financial record books;
- balance forms.

5. Supplier contracts must be prepared and executed. For this, the following are necessary:

- a copy of the court order;
- a standard application for the contracting of services completed by the chairman;
- the supplier's standard contract completed and executed by the chairman (the contract will contain any additional clauses approved by the General Assembly);
- a written document designating the individual (name, address and phone number) who will read the meter with the supplier's representative.

6. Contracts with service suppliers (companies or individuals) must be completed consistent with the decisions of the General Assembly. A standard contract form should be used, with special clauses added as directed by the General Assembly.

7. A time for the payment of assessments should be posted in common space in the building, such as the entrance hall or a laundry room.

8. Any rules and regulations adopted by the Owners' Association, in conformance with the Association Agreement, should be distributed to each family and also posted in the common area.

9. A schedule of the meetings of the Executive Committee should be established and posted.

**by**  
**Cristina Creosteanu**  
**Chairman, Speranta Owners' Association**